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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,372	03/24/2004	Adrian Steiner	PA-222	3962
21920	7590	03/06/2006	EXAMINER	
MEREK, BLACKMON & VOORHEES, LLC 673 S. WASHINGTON ST. ALEXANDRIA, WV 22314			KASENGE, CHARLES R	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/807,372	STEINER ET AL.
	Examiner	Art Unit
	Charles R. Kasenga	2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7, 10-18 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7, 10-18 and 21-26 is/are rejected.
- 7) Claim(s) 1 and 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 11/30/05, with respect to the rejection(s) of claim(s) 1-26 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Tucker et al. U.S. Patent Application Publication 2002/0117214.

Claim Objections

2. Claims 1 and 10 are objected to because of the following informalities: The word "therethrough" should be two words. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 10-18, and 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker et al. U.S. Patent Application Publication 2002/0117214. Regarding claims 1, 10, 13, 21, and 25, Tucker discloses an apparatus to control the rate of flow of a stream of pressurized fluid through a conduit (Fig. 1 and pg. 1, ¶8), the apparatus comprising: (i) a flow measurement device for generating an output signal proportionate to the rate of flow of said fluid therethrough, said flow measurement device being operatively connected to said conduit (pg. 9 and 10, ¶¶92 and

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110); (ii) a flow control device operatively connected to said conduit, said flow control device including an adjustable orifice wherein upon the opening of said orifice a portion of said stream of pressurized fluid is independently released from said conduit by said flow control device (Figs. 1 and 12, #12; pg. 5, ¶51 and 54); and, (iii) a controller operatively connected to said flow control device and receiving said output signal generated by said flow measurement device, said controller causing said adjustable orifice in said flow control device to open or close as necessary to maintain the flow of pressurized fluid as measured by said flow measurement device within pre-determined limits (Fig. 12, #12; pg. 5, ¶49). Tucker discloses the use of pumps in the system (pg. 9 and 10, ¶101) and allows for the discharge of fluid from said conduit to be at a rate below the output rate of the pump (pg. 9, ¶96).

Regarding claims 2-6, 15-18, 22 and 23, Tucker discloses the device as claimed in claim 1 wherein said flow control device includes an automatically adjustable choke or valve (pg. 5, ¶51 and 54). Tucker discloses the device as claimed in claim 1 wherein said flow measurement device includes a turbine in communication with said stream of pressurized fluid (pg. 9, ¶92). Tucker discloses the device as claimed in claim 1 wherein said flow measurement device includes a pitot tube, the output of said pitot tube operatively connected to said controller (pg. 10, ¶101). Tucker discloses the device as claimed in claim 1 wherein said flow measurement device includes a pilot pressure tube, said pilot pressure tube having a first end in communication with said conduit and a second end in communication with said controller (pg. 10, ¶101).

Regarding claims 7 and 26, Tucker discloses the device as claimed in claim 1 wherein

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said controller is a microprocessor control, said microprocessor control being programmable to automatically adjust said orifice in said flow control device in accordance with fluctuations in said output signal received from said flow measurement device to maintain the flow of fluid as measured by said flow measurement device within a pre-determined range (pg. 7, ¶66).

Regarding claims 11 and 12, Tucker discloses the device as claimed in claim 10 including a visual indicator responsive to said output signal generated by said flow measurement device (pg. 8, ¶89). Tucker discloses the device as claimed in claim 11 wherein said visual indicator comprises a gauge indicating the volumetric flow of fluid as measured by said flow measurement device (pg. 8, ¶89).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles R. Kasenge whose telephone number is 571 272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CK
February 24, 2006

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100